UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

CNN AMERICA, INC. AND TEAM VIDEO SERVICES, LLC

And

Case No. 5-CA-31828

NATIONAL ASSOCIATION OF BROADCAST EMPLOYEES & TECHNICIANS, COMMUNICATIONS WORKERS OF AMERICAN, LOCAL 31, AFL-CIO,

And

CNN AMERICA, INC. AND TEAM VIDEO SERVICES, LLC

And

Case No. 5-CA-33125 (formerly 2-CA-36129)

NATIONAL ASSOCIATION OF BROADCAST EMPLOYEES & TECHNICIANS, COMMUNICATIONS WORKERS OF AMERICAN, LOCAL 11, AFL-CIO.

CNN AMERICA, INC.'S OPPOSITION TO GENERAL COUNSEL'S REQUEST FOR EXTENSION OF TIME TO FILE CROSS-EXCEPTIONS, A SUPPORTING BRIEF, A RESPONSIVE BRIEF, AND TWO APPENDICES AND AN EXTENSION OF THE APPLICABLE PAGE LIMITS

Respondent, CNN America, Inc. ("CNN"), hereby opposes the request of the General Counsel to extend until May 18, 2009 the deadline to file its cross-exceptions and supporting brief and its brief in response to CNN's exceptions, and to enlarge the page limits to 150-pages for the supporting brief, 300 pages for the responsive brief, plus 120 pages of 11 x 14 inch (apparently single-spaced) appendices. Consistent with sections 102.46 and 102.114 of the Rules and Regulations of the National Labor Relations Board and the prior decision of the Executive Secretary in this case, CNN respectfully submits that the General Counsel should be permitted to file: (a) its cross-exceptions within 21 days (on or before March 10, 2009), with a supporting brief of no more than 50 letter-sized, double-spaced pages; and (b) a brief in response to CNN's exceptions within 45 days (on or before April 3, 2009) of not more than 225 letter-

sized, double-spaced pages. CNN also respectfully requests commensurate enlargements of the time periods and page limits for CNN's briefing in response to the General Counsel's exceptions and in reply to the General Counsel's response to CNN's exceptions.

As support for this suggestion, CNN states as follows:

- 1. On November 25, 2008, CNN requested a 90-day extension to file exceptions to Judge Amchan's decision, and permission to file a supporting brief of not more than 300 pages. The General Counsel opposed CNN's request on December 5, 2008, describing it as "excessive and unnecessary." Rose Letter dated December 4, 2008. The General Counsel opined that "the size of the instant litigation requires a reasonable limit of no more than 150 pages for supporting briefs." *Id.* The General Counsel proposed that CNN be allowed a 30-day extension to file exceptions and be limited to a 150-page brief. On December 5, 2008, the Associate Executive Secretary granted CNN a 62-day extension of the 28-day period, for a total of 90 days in which to file its exceptions, and enlarged the page limit for the supporting brief to 225 pages. On February 17, 2009, CNN filed its exceptions and supporting brief in accordance with those restrictions.
- 2. The Board's Rules and Regulations provide that cross-exceptions, a brief in support thereof, as well as a brief responsive to another party's exceptions must be filed in fourteen days, and that the briefs are limited to 50 pages each. NLRB Rules and Regulations §§ 102.46(d)-(e), (j). The briefs must be on letter-sized paper, and single-spaced. NLRB Rules and Regulations §§ 102.46(j) and 102.114(d).
- 3. With respect to the cross-exceptions and supporting brief, the General Counsel has known since November 2008 that it would file cross-exceptions and a supporting brief.

 Therefore, the General Counsel has already had three months to prepare them. Moreover, there

is little in Judge Amchan's decision to which the General Counsel can take exception, because the only claim of the General Counsel's that was denied was the claim against Team Video. That was a small part of the litigation, and is addressed on two pages of Judge Amchan's decision (pages 145-146). Given the substantial period already available, there is no need for an extension of time. Nor is enlargement of the page limit for the brief supporting cross-exceptions necessary, in light of the limited scope of the topics amenable to cross-exceptions. The requested 150 pages plus 30 pages of 11 x 14 inch appendices are more than necessary to cover the cross-exceptions in this case. Nevertheless, CNN does not oppose an extension of seven additional days; CNN respectfully suggests that the remainder of the rules applicable to briefs supporting cross-exceptions should apply without modification.

4. With respect to the brief responding to CNN's exceptions, CNN proposes that the General Counsel's brief be submitted within 45 days after service of CNN's exceptions, on or before April 3, 2009. As provided in the Rules and Regulations, this constitutes one-half of the 90 days which were allotted for the initial filling of exceptions and supporting briefs. *Compare* NLRB Rules and Regulations § 102.46(a) *with* §§ 102.46(d)-(e) (providing 28 days for the filing of exceptions and 14 days for the filling of a responsive brief and/or cross-exceptions together with a supporting brief). This would give the General Counsel 31 additional days. That is a larger extension than the General Counsel proposed for CNN's briefing. Rose Letter dated December 4, 2008. CNN respectfully suggests that a limit of 225 letter-sized, double-spaced pages apply to the General Counsel's brief opposing CNN's exceptions. This would give the General Counsel the same number of pages allotted to CNN. I

While the General Counsel refers to "561 pages" submitted by CNN, that number includes CNN's exceptions, and is therefore not a fair comparison. CNN's brief measured just 224 pages. (continued...)

- 5. CNN respectfully suggests that appendices are inappropriate for any of these briefs, because they are not provided in the Rules and Regulations; however, if they are allowed, they should be included within the page limitations and should be double spaced.
- 6. If the deadlines and page limits applicable to the General Counsel are enlarged, CNN respectfully requests that each of the deadlines and page limits applicable to CNN's briefing in response thereto be enlarged to the same degree.

For the reasons stated above, CNN respectfully requests that: (a) the General Counsel be permitted to file its cross-exceptions within 21 days (on or before March 10, 2009), with a supporting brief of no more than 50 letter-sized, double-spaced pages; (b) the General Counsel be permitted to file a brief in response to CNN's exceptions within 45 days (on or before April 3, 2009) of not more than 225 letter-sized, double-spaced pages; and (c) CNN be given commensurate enlargements of the time periods and page limits for CNN's briefing in response to the General Counsel's exceptions and in reply to the General Counsel's response to CNN's exceptions.

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That is the appropriate comparison for the General Counsel's briefs, because neither CNN's exceptions nor the General Counsel's exceptions are subject to page limits.

Respectfully Submitted,

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COUNSEL FOR RESPONDENT CNN AMERICA, INC.

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AFFIDAVIT OF SERVICE

Eric Engberg, being duly sworn, deposes and says as follows:

- 1. I am over 18 years of age, am not a party to this proceeding, and am employed by the law firm of Paul, Hastings, Janofsky & Walker LLP, 875 15th Street, N.W., Washington, D.C. 20005.
- 2. On the 25th day of February, 2009, I filed, by E-file, CNN America, Inc.'s Opposition To General Counsel's Request For Extension Of Time To File Cross-Exceptions, A Supporting Brief, A Responsive Brief, And Two Appendices And An Extension Of The Applicable Page Limits, with Henry S. Breiteneicher, Associate Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, D.C. 20570.

1.1.

3. On the 25th day of February, 2009, I served one true and correct copy of CNN America, Inc.'s Opposition To General Counsel's Request For Extension Of Time To File Cross-Exceptions, A Supporting Brief, A Responsive Brief, And Two Appendices And An Extension Of The Applicable Page Limits, by e-mail, on the following:

Gregory Beatty, Esq. National Labor Relations Board 103 S. Gay Street, 8th Floor Baltimore, MD 21202-4061 Dorothy C. Foley, Esq.
Allen Rose, Esq.
National Labor Relations Board
Region 2 – New York Resident Office
26 Federal Plaza – Room 3614
New York, NY 10278

Peter Chatilovicz, Esq. Seyfarth Shaw 815 Connecticut Avenue, N.W., Suite 500 Washington, D.C. 20006 Attorneys for Team Video Services, LLC Brian Powers, Esq.
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David Biggar, Esq. Region 18, National Labor Relations Board 330 Second Avenue South, Suite 790 Minneapolis, MN 55401 Robert Marinovic, Esq. Meyer, Suozzi, English & Klein, P.C. 1350 Broadway, Suite 501 New York, NY 10018 (212) 239-4999 Attorneys for NABET Local 11

4. On the 25th day of February, 2009, I served one true and correct copy of CNN America, Inc.'s Opposition To General Counsel's Request For Extension Of Time To File Cross-Exceptions, A Supporting Brief, A Responsive Brief, And Two Appendices And An Extension Of The Applicable Page Limits, by overnight delivery on the following and notified the same by telephone at the numbers below:

Steve Sturm, Esq. Sturm and Pearl 9 Wittman Drive Katonah, NY 10536 (212) 419-1515 National Association of Broadcast Employees and Technicians Local 11 145 West 30th Street, 12th Floor New York, NY 10001 (212) 757-3065 Communications Workers of America, District 2 c/o Mark Wilson, Esq. 17000 Science Drive, Ste. 210 Bowie, MD 20715 (301) 809-4160

NABET-CWA Local 52031 962 Wayne, Suite 400 Silver Spring, MD 20910 (301) 495-4999

Mr. Larry D'Anna Team Video Services, LLC 4455 Connecticut Avenue, N.W., Suite 300 Washington, DC 20008 (202) 363-1000 Matt Harris, Esq.
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Washington, DC 20001
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Eric Engberg

Sworn to before me this 25th day of February, 2009

Sai A. MacConnach Notary Public, D.C.

Sai M. MacCormack Notary Public, District of Columbia My Commission Expires 4/30/2011

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